
Department of Transportation

Introduction

The Colorado Department of Transportation is responsible for programs that impact all modes of transportation. Its operations are governed by the State Transportation Commission.

In Fiscal Year 1998 about one half of the Department's expenditures were related to construction funded by the Federal Highway Administration (FHWA) and state sales and use tax funds. Most of its other expenditures are funded by the Department's portion of the State Highway Users Tax Fund (i.e., the State Highway Fund) and various aviation-related taxes. The Department also receives monies from other federal agencies that it passes through to local governments and other entities for highway safety and transportation improvement programs.

The FHWA funds are used for research, planning, and construction of highways. The State Highway Fund pays for highway maintenance and operations and about 20 percent of any highway construction not covered by FHWA funds.

The following comments were prepared by the public accounting firm of Arthur Andersen, LLP, who performed work at the Department of Transportation.

Improve Effectiveness of Payroll Review Process for Prime Contractors and Subcontractors

Both prime and subcontractors are required to complete Colorado Department of Transportation payroll Form #118 for each pay period as long as they are engaged on a project. Form #118 is a compliance statement completed by prime and subcontractors, which includes a list of required items that have been performed relating to the pay period. This form serves as an attestation by the contractor that all required tasks relating to payroll have been completed and that in the event any exceptions arise, they are to be noted on this form. Subcontractors are required to submit payroll summaries to the prime contractor for review before they are passed on to Transportation's project engineers. Form #118 contains a completed employee payroll summary for the related pay period, which includes employees' names, addresses, social security numbers, hours worked, job classifications, and job code numbers. Project engineers are required to perform a 100 percent wage rate review of the first payroll submission for each contractor to ensure hourly rates are in compliance with the Davis-Bacon Act of 1931 (Davis-Bacon). Davis-Bacon is a law

enacted to guarantee fair competition on federal and state construction projects by establishing prevailing minimum wage rates that must be paid to project workers. The initial project engineer review also requires the project engineers to evaluate the payroll submission for reasonableness based on the number of employees and the work performed. If the first payroll is in compliance with Davis-Bacon and reasonable, subsequent payrolls are reviewed simply for reasonableness. If the initial review is not in compliance with Davis-Bacon, additional payroll summaries are reviewed until the contractor has demonstrated compliance.

During the construction site visits, we noted the following:

- Discussions with Transportation project engineers revealed that prime contractors were not thorough in their review of subcontractor payroll submissions, which forces project engineers to spend unnecessary time identifying and correcting errors in these submissions.
- The first payroll receiving 100 percent review is generally small compared with subsequent payrolls occurring during peak activity. For example, the number of employees working on a project during the first pay period under review may be only 25 percent of the total employees working during peak activity. Thus, reviews by project engineers are not focused on the periods with the highest risk of error.

Prime contractors should be accountable for the submission of inaccurate payroll summaries. The Federal Highway Administration (FHWA) Form #1273, which outlines the provisions for federal-aid construction contracts, specifically requires the prime contractors to review all subcontractors' payroll submissions. FHWA Form #1273 sets forth federal-aid construction contract requirements related to Equal Employment Opportunity (EEO), and records for wages, payroll, materials, supplies, labor, and safety. This form also gives Transportation the authority to suspend payment of funds to a prime or subcontractor in the event they fail to comply with these payroll requirements. Through conversations with project engineers, prime contractors are not performing adequate payroll reviews, if any at all. This lack of review by prime contractors places an added unnecessary burden on the project engineers to ensure submissions are accurate. Current review requirements for project engineers are not focused on periods with the highest likelihood of error because they are not intended to be a substitute for the contractor reviews that should be occurring. If errors go undetected and work being performed under a contract is not in compliance with federal regulations, federal funds being provided to support the project may be withheld.

Recommendation No. 17:

The Department of Transportation should more actively enforce the contractor payroll review requirements and work with prime and subcontractors to train them in proper payroll procedures.

Department of Transportation Response:

Agree. Upon completion of the ongoing Program Quality Review, Staff Construction and Materials will target the areas revealing the most errors and tailor training to contractors accordingly. Financial disincentives will also be developed to emphasize the importance of monitoring subcontractors. Implementation is scheduled for March 31, 1999.

Conduct Required Construction Site Employee Interviews in a Timely Manner

Department of Transportation Form #280 is both an Equal Employment Opportunity (EEO) and labor compliance form. This form is used when interviewing employees of prime contractors and subcontractors in order to verify employees are aware of the company's EEO requirements and are receiving the correct wages for the classification in which they are working. The purpose of these interviews is for Transportation employees to verify whether contractors are meeting EEO labor compliance and Davis-Bacon wage requirements. The minimum number of interviews to be conducted is 10 percent of the prime and subcontractor's employees for each different job classification working on the project (e.g., pavers, surveyors, welders, etc.). Currently the only timeline established for performing these interviews requires that they be performed before the close of the project. Interviews not completed during the course of the project do not identify problems in a timely manner, which results in misclassified and incorrectly paid employees who are often difficult to locate and makes further evaluation of a problem difficult to perform.

Department of Transportation employees conducting Form #280 interviews are not required to have had any training or attain a specific job classification, and any Transportation employee present at the construction site may conduct interviews. The interviews and forms are completed at the project site and then forwarded to Transportation's Regional EEO representative for review. The Transportation EEO representative does not review completed #280 forms unless a complaint has been raised. If a dispute arises as a result of an interview, the EEO division is notified in

a timely manner and is required to follow up on all reported violations, including investigating the possibility of additional violations relating to the dispute.

During construction site visits, we noted the following:

- Department of Transportation project engineers believed the interviews were to be conducted only if a complaint arose.
- Interviews and Form #280s were not a priority for project engineers; we noted five of the ten sites visited had not completed the forms at the time of our visit.
- The Form #280s were not being completed in a timely fashion and the employees selected were not from the various job classifications required.
- Responsibility for completion of the forms is not specifically assigned to either the EEO division or the project engineer and neither group clearly accepts the duty.

Early identification of instances of noncompliance with federal wage regulations will eliminate the time-consuming retroactive correction of these errors and minimize the likelihood of federal funds being withheld due to the lack of compliance with established regulations.

Recommendation No. 18:

The Department of Transportation should train project engineers in the purpose and requirements of the Form #280 and require its regional Equal Employment Opportunity (EEO) representatives to take an active role in monitoring the quantity, quality, and timeliness of forms that must be completed for each project.

Department of Transportation Response:

Agree. Staff Construction and Materials will include training on Form #280 during the annual Regional Support Programs conducted statewide. The Program Quality Review, noted above, should also identify information that will provide additional focus to this training effort. Implementation is scheduled for March 31, 1999.
